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### REMARKS

In the present Office Action, claims 41-53 and 55-70 are pending. Claims 41-53 and 55-65 were rejected and claims 66-70 were withdrawn from consideration. By the present Office Action, withdrawn claims 66-70 have been cancelled. The remaining claims are unchanged and Applicants traverse the rejection of those claims as follows:

Claims 41, 54-56, and 61 were rejected under 35 USC 102(b) as anticipated by *Dille* (U.S. Patent No. 6,334,490). *Dille*, at column 1, lines 7-11, discloses a shock actuated safety system for a passenger compartment or a cargo area of an automobile. The system includes impact sensors and a protective foam gel dispenser. As noted in *Dille* at column 3, lines 11-16, the impact sensors have a pressure sensitive portion to detect an impact. It appears actuation of the *Dille* system is dependent on the force of the impact and not whether the automobile is accelerating, decelerating, traveling at a critical speed or any of the other factors recited in Applicants' claims. Indeed, it appears that the *Dille* system would be actuated by an impact even if the automobile is stationery before and after impact or even if an impact sensor is struck with sufficient force, such as by a sledge hammer or tree limb. On actuation, a resilient foam gel is dispersed (*Dille* at column 3, line 3). A resilient foam is one that withstands a shock without permanent deformation or rupture. Such a foam is distinguished from a surfactant-containing, film-forming, fire suppressant as claimed by the Applicants.

Applicants' claim 41 recites that the fire suppression system is actuated by conditions selected from the group consisting of acceleration, deceleration, speed, time, temperature, fuel, fuel level, fire, smoke, light transmittance and optical signature. These parameters identify the likelihood of a fuel spill and fire external to the automobile, as disclosed in Applicants' specification at page 1, line 15 through page 2, line 7. Applicants' sensors, while mounted on the automobile, provide information useful to determine conditions off the automobile, on the roadway. The sensors disclosed in *Dille* detect an impact shock and provide no information useful to determine conditions off the automobile. This is because *Dille* is directed to extinguishing fires in passenger and cargo compartments on the automobile and does not recognize, much less provide, a solution for fires off the automobile.

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Claim 41 is further distinguished from the disclosure of *Dille* by claiming a surfactant in a fluid fire suppressant to enhance a film-forming capability of the fluid fire suppressant. Applicants' fire suppressant conforms to the roadway surface and is the antithesis of a resilient fire suppressant.

Applicants' claim 41 is not directed to a fire suppressant method that is exclusively impact actuated nor that employs a resilient fire suppressant material, Applicants' claim 41 and the claims dependent therefrom should be allowed over the *Dille* reference.

Claim 55 recites that the distribution system conducts a fire suppressant to at least one location about the body. With reference to Applicants' specification at page 11, line 16, about means at or near the ground surface around the automobile. The nozzle is directed about the body and not into the body as disclosed in *Dille*. This is because Applicants' system is directed to extinguishing fires external to the automobile body rather than fires contained in a passenger compartment or a cargo compartment.

Claim 55 recites a sensor system that determines both (1) whether the vehicle has been subjected to an impact and (2) whether the vehicle is moving subsequent to that impact. While Applicants acknowledge that *Dille* discloses the first condition, namely whether the vehicle has been subjected to an impact, there is nothing in *Dille* to teach or suggest a sensor system effective to also determine the second condition, namely whether the vehicle is moving subsequent to an impact. *Dille* is concerned with fire in a compartment on-board the automobile and motion of the vehicle is irrelevant. From a frame of reference on the automobile, the compartments are always stationery. Applicants' claim 55 and the claims dependent therefrom should be allowed over the *Dille* reference.

Method claim 56 includes sensing two different features, an impact on the vehicle and the vehicle speed following impact. As explained above for claim 55, there is nothing in *Dille* to teach or suggest sensing the vehicle speed following impact and, as the *Dille* sensors and passenger compartment are part of the same vehicle, from a frame of reference of an on-board sensor, the speed of the passenger compartment is always zero. There is no basis for one skilled in the art to sense vehicle speed for a system as disclosed in *Dille*.

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The final subparagraph of claim 56 discloses discharging the fire suppressant agent when the vehicle speed crosses a predetermined speed. As, from the frame of reference of the sensors in *Dille*, the vehicle is stationary, there is nothing in *Dille* to teach or suggest discharging when the vehicle speed crosses a predetermined speed. Applicants' claim 56 and the claims dependent therefrom should be allowed over the *Dille* reference.

Applicants' claims 52-53, 58-60, 64 and 65 were rejected under 35 USC 103(a) as unpatentable over *Dille*. The Examiner took the position that actuating the fire suppression system on a predetermined condition would be an obvious design choice for a person of ordinary skill in the art having the device of *Dille*. Applicants respectfully traverse this conclusion. Applicants' independent claim 50 recites as a predetermined condition that the speed is in excess of a minimum speed at the time of collision. As discussed above, *Dille* is concerned with suppressing a fire in a passenger compartment on the automobile and from the frame of reference of the sensors the automobile is stationary. There is nothing in *Dille* that would cause one skilled in the art to select the speed of the automobile as a predetermined condition influencing discharge of fire suppressant material. Further, claim 50 recites a surfactant in a fluid fire suppressant to enhance film-forming capability. This is counter to the resilient fire suppressant gel of *Dille*. Applicants' claim 50 should be allowed over the *Dille* reference.

Regarding the other claims that are dependent from one of independent claims 41, 55 or 56, the predetermined conditions specified in those claims such as acceleration, deceleration, speed, and whether the vehicle is moving all relate to sensors concerned with a frame of reference exterior to the vehicle, namely the roadway, as opposed to a passenger compartment or a cargo compartment. These claims should be allowed over the *Dille* reference.

Applicants' claims 60, 64 and 65 recite that the fire suppressant is discharged at a location external to the automobile. The Examiner took the position that that is an obvious matter of design choice for one skilled in the art to place the discharge of the fire suppressant where it is most efficient to fight fires and for stopping fires in a short period of time. However, *Dille* is directed to extinguishing fires in enclosed compartments, not external to the automobile. Applicants distinguish the claimed nozzles from nozzles directed into a closed compartment at

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page 11, line 17-18. Further, unlike conventional wisdom as recited by the Examiner and *Dille*, at column 3, line 18 ("immediately protect"), Applicants' specification at page 20, line 10 discloses that for a roadway fire a delay in actuation is desired. This is to ensure that pooling of fuel and sparking due to dragged metal components has ceased to prevent reignition of the fire. The *Dille* system which discloses immediate actuation and dispersal of a resilient gel does not teach or suggest a fire suppression system effective to extinguish roadway fires. Applicants' claims should be allowed over the *Dille* reference.

Claims 57, 62 and 63 were rejected under 35 USC 103(a) over *Dille* in view of *Parkinson, et al.* (U.S. 5,992,528). *Parkinson, et al.* disclose the use of an automotive airbag type inflator to dispense and disperse a powdered fire suppressant material. One suggested application is in a motor vehicle as disclosed in *Parkinson, et al.* at column 1, line 29. At line 32 it is disclosed that the fire should be rapidly extinguished. There is nothing in the combination of references to teach or suggest either a delay in actuating the fire suppression system or inclusion of a film forming fire suppressant. *Dille* discloses resilient gels and *Parkinson* discloses a dry powder. Neither suppressant is believed to be as effective as a film forming fluid to extinguish a roadway fire following an automobile crash. Applicants' claims 57, 62 and 63 should be allowed over the combination of references.

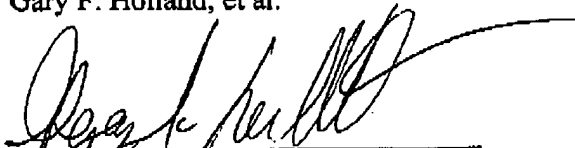
Entry of this amendment and reconsideration of the claims is respectfully solicited. It is believed that this amendment is proper under the requirements of 37 CFR 1.116 as cancellation of withdrawn claims 66-70 is a condition precedent to either an appeal or grant of a patent. It is believed that all claims are now in condition for allowance and prompt issuance of a notice of allowance is respectfully solicited. If the Examiner believes that a further amendment is required in order to place the claims in condition for allowance, he is invited to contact Applicants' attorney at the telephone number listed below.

If the Examiner has any questions or believes that a discussion with Applicants' attorney would expedite prosecution, the Examiner is invited and encouraged to contact the undersigned at the telephone number below.

Please apply any credits or charge any deficiencies to our Deposit Account No. 23-1665.

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Respectfully submitted,  
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